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BRIEF ON

CONTRACT COMPLIANCE

Prepared By:

The Ontario
Status of Women Council

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INTRODUCTION

The Ontario Status of Women Council is pleased that affirmative action programmes undertaken by the Ontario Government are beginning to take effect. We are encouraged by individual examples of women Crown employees who are now in high paying positions - in 1977, 8.4% of those earning over \$32,000 were women, compared with 4% in 1976. However, the majority of women are still in the lowest paying positions - 88.1% of those earning \$7,000 - \$8,999 are women, and 77.1% of those earning \$9,000 to \$10,999 are women.¹

The Ontario Status of Women Council is deeply concerned that women are still earning only 55.9% of what men earn. Statistics on all women in the labour force reflect that the general situation, in contrast to that of the public service, actually is deteriorating and the gap is widening.

The situation automatically brings up the question: WHAT IS THE ONGOING RESPONSIBILITY OF THE ONTARIO GOVERNMENT, ONE OF THE LARGEST SINGLE EMPLOYERS

¹Ontario Ministry of Labour, Women Crown Employees Office: Report 1976-77: The Status of Women Crown Employees, Table 2, "Salary Distribution by Sex, Ontario Public Service, March 31, 1977, p. 33.



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OF WOMEN IN ONTARIO, TO INITIATE NEW AND MORE EFFECTIVE PROGRAMMES TO ATTAIN GOALS FOR EQUAL OPPORTUNITY AND UPGRADING FOR WOMEN?

In 1975, Premier William Davis stated that if affirmative action were not succeeding, he would be willing to introduce more stringent methods to achieve equality. "We are examining issues of concern, such as day care; and new areas of policy to see what further steps could be undertaken in a positive and workable manner in terms of affirmative action guidelines. It has been suggested, for example, that we might consider affirmative action guidelines for publicly-funded institutions and for firms and companies that tender for government contracts and government business. These types of requirements, I understand, are now fairly common throughout the United States."²

"We are making every effort as an employer to implement fair, just and meaningful employment programs and in addition we are searching for other ways and means of helping employees."³

²Appendix 1, Speech by Premier William Davis, Feb. 18, 1975, at the Hyatt Regency Hotel, Toronto, p.7.

³Ibid. p.8.

The Ontario Status of Women Council believes and recommends that as one of the largest employers of women in the province, the government must continue to take the responsibility of being a leader. We also endorse the Premier's statements in the attached speech that the government share this social responsibility with employers and unions.

While acknowledging that affirmative action programmes have achieved limited success, too many publicly funded bodies lack volunteer affirmative action plans. In order to broaden opportunities for women, the Ontario Status of Women recommends CONTRACT COMPLIANCE as a means to advance.

CONTRACT COMPLIANCE

The Ontario Status of Women Council believes that employers receiving public funds should not be allowed to discriminate. Contract compliance is a mechanism by which a funding body places conditions on anyone receiving its funds and in its broadest sense, it ensures responsible use of public funds. The advantages of this strategy to women are:

- 1) Endorses and extends the principle of human rights to the expenditure of public funds.
- 2) Ensures that equal opportunity for women is guaranteed by the basic terms of contracts.
- 3) Because government contractors would have to use contract compliance, other employers would have to adopt affirmative action plans in order to attract employees.

From our research, it would appear there are two options for the government to consider. One, the government could require contract compliance from companies of a purely "supply and service" nature, i.e.

companies that supply the government with direct goods and services. Two, the government could require compliance from all groups, including companies, agencies, subcontractors, institutions and governments which are provincially funded. The broader concept would ensure an equitable use of public funds. Therefore the Ontario Status of Women Council recommends that all groups receiving public funds be included in changes in labour legislation to ensure contract compliance.

CONTRACT COMPLIANCE IN THE U.S.A.

From our research, we have found that the United States has a contract compliance programme, which although not without its problems, has been successful in improving the status of women and minorities. We feel their model should be studied by the Government, and the positive aspects used in the formation of a contract compliance programme for Ontario.

"The Federal contract compliance program is mandated by Executive Order 11246, signed in 1965, which forbids discrimination in employment by Government contractors and subcontractors on the basis of race, color, religion, or national origin. The order was amended in 1967 to forbid discrimination in employment on the basis of sex as well. It requires Government contractors to take affirmative action to ensure that job applicants and employees are not discriminated against on the basis of race, color, religion, national origin, or sex.

"Contractors subject to the requirements of the program must ensure that equal employment opportunity principles are followed at all company facilities, including those facilities not engaged in work on a Federal contract. For example, if a Government agency enters into a contract with a contractor in Washington, D.C., and that contractor has other facilities scattered throughout the United States, each of the contractor's facilities is required to comply with the provision of the Federal contract compliance program.

"Each nonconstruction contractor that has 50 or more employees and a Government contract of \$50,000 or more is also required to prepare a written affirmative action plan (AAP) applicable to each of its facilities.

"To meet the standards for acceptability set forth in regulations issued by the Secretary of Labour, the AAP must include specific types of data. These include: (1) goals for improving the employment of minorities and females in those cases where the contractor is found to be deficient (i.e., where the contractor is presently employing fewer minorities and/or females than would reasonably be expected considering their availability within an area where the contractor can be expected to recruit); and (2) timetables for achieving those goals. Following this plan, the contractor should be able to increase materially the utilization of minorities and women at all levels and in all segments of its work force where deficiencies exist.

"Various sanctions are authorized if a Government contractor fails to prepare an acceptable AAP or to exercise good faith in implementing it. These include contract suspension, contract cancellation, debarment from future Government contracts, and referral to the Department of Justice for court action under Title VII of the Civil Rights Act of 1964.

"Responsibility for administration of the Executive order is assigned to the Secretary of Labor. The Secretary has redelegated some of his authority (including the authority to designate agencies to act as compliance agencies) to the Director of the Office of Federal Contract Compliance (OFCC) within the Department's Employment Standards Administration.

"OFCC's responsibilities include:

- * Establishing policies, objectives, priorities, and goals for the program.*

- * Reviewing and evaluating the capability and performance of each contracting agency to assure maximum progress to achieve the objectives of the Executive order; and*

- * Developing and recommending such standards, rules, and regulations (referred to here as guidelines) for issuance by the Secretary of Labor as are necessary for the administration of the Executive order."*⁴

⁴Ahert, Gregory J.: "Evaluating Contract Compliance" from *The Civil Rights Digest*, Vol. 7, No. 1 (1974).

PROBLEMS WITH THE U.S. PROGRAMME

From our initial research it would appear that some problems have been identified in the U.S. programme which could easily be avoided in Ontario.

Having 16 compliance agencies results in bureaucratic nightmares. It is massive, and their standards and levels of dedication differ. Some agencies approve the plans, even if a company doesn't meet federal guidelines. The agencies have developed different affirmative action policies. This results in a company which has a contract with one department not reaching the standards of that department, but meeting the standards of the agency to which it reports.

The 120 day limit to submit an affirmative action programme seems unrealistic as it is difficult to cancel a contract after that period of time. The sanctions are too rigid and severe and are rarely applied.

We believe the programme can work and be effective, but should be strengthened.

We believe that reaching seven groups in one programme is ineffective. Multiple fillings is where one person fits into more than one category. An employer can appear to be complying by using multiple fillings, i.e., placing an individual who is, for example, a woman/black/handicapped/ and/or elderly, in one position.

RECOMMENDATIONS

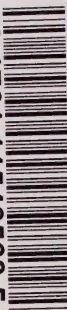
After our initial research of the U.S. programme the Ontario Status of Women Council recommends the following:

1. We recommend that, as one of the largest employers of women in the province, the government must take the social responsibility of being a leader with all companies, agencies, etc. who are privileged to receive funds from the government.
2. We recommend that, because of the extensive background of knowledge presently relating to the government affirmative action plans with women Crown employees, the Ontario Government initially adopt a pilot project of contract compliance for women.
3. We recommend that Affirmative Action plans be filed and approved at the time the contract is entered into.
4. We recommend that a graduated penalty system be introduced to precede contract cancellation and debarment of future contract consideration.

5. We recommend that the government participate in a public education programme to involve unions.
6. We recommend that the contract compliance programme be within the aegis of the Ministry of Labour.
7. We recommend that a strong public awareness programme be a fundamental component of contract compliance.
8. We recommend that, as a basic requirement, "class action" be included in Human Rights Legislation.⁵

⁵The Ontario Status of Women Council: Brief to the Ontario Human Rights Commission on the Ontario Human Rights Code, June 2, 1976, p.2.

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1. We recommend that the Government continue to a public education programme to involve unions.
2. We recommend that the Government continue to involve the unions in the design of the new system of labour.
3. We recommend that a strong public education programme be a fundamental component of contract compliance.
4. We recommend that, as a basic requirement, 'class action' be included in human rights legislation.

The Council of Women Workers, 1971, p. 10
General Women's Rights Committee on the Council of Women
Workers, 1971, p. 10.